



STATE OF IOWA

CHESTER J. CULVER
GOVERNOR
PATTY JUDGE
LT. GOVERNOR

OFFICE OF DRUG CONTROL POLICY
GARY W. KENDALL, DIRECTOR

Senate Caucus on International Narcotics Control Hearing

“The Status of Meth Making Pseudoephedrine Prescription Only: The Oregon Experience”

Gary W. Kendall
Director, State of Iowa Governor's Office of Drug Control Policy
Des Moines, Iowa

April 13, 2010
10:00 a.m.

Ms. Chairwoman Feinstein, Mr. Chairman Grassley and members of the Caucus, I am so very pleased to appear before you today on behalf of the State of Iowa to speak with you about my view of the positive and negative implications of making pseudoephedrine prescription only.

The number of methamphetamine labs seized by law enforcement hit its peak in Iowa in 2004 with an average of 125 methamphetamine labs seized each month or approximately 1,500 annually. Even with this huge number of methamphetamine labs producing methamphetamine in the State, 80 – 85% of the methamphetamine in the State was being brought in by drug trafficking organizations from the southwestern United States and Mexico.

In 2004, new drug-related prison admissions were at a record high. In addition, the percentage of Iowa adults admitted to treatment with methamphetamine as their primary drug of abuse was at an all-time high of 14.6%.

With the passage of pseudoephedrine controls, first on the state level in Iowa and then on the federal level with the Combat Methamphetamine Epidemic Act, we saw dramatic

improvement regarding domestic production in Iowa. In 2005, the monthly average decreased to 64 methamphetamine labs seized each month. In 2006, the monthly average decreased to 29 methamphetamine labs seized each month. The decline continued in 2007 with a monthly average of 14 methamphetamine labs seized each month. Due to an increase in “smurfing” and the meth cooks’ realization that the pseudoephedrine purchase logs were not connected allowing the relevant information to be shared from pharmacy to pharmacy, in 2008 we saw an increase to an average of 17 methamphetamine labs seized each month. The upward trend continued in 2009 with an average of just over 22 methamphetamine labs seized each month.

During the 2009 state legislative session, we succeeded in passing Senate File 237 which allows the Governor’s Office of Drug Control Policy to establish a real-time electronic tracking system for pseudoephedrine purchases and requires participation by all pharmacies selling pseudoephedrine products. We are in the process of implementing this system with a target of July 1, 2010 to be operational statewide. Our law provides that the pharmacists will not be required to refuse to complete the sale, however they will be notified when someone is attempting to purchase in excess of the limits and will have the authority to refuse the sale if they choose to do so. We will have the ability to provide important data regarding individuals who purchase over the established limits to law enforcement for them to follow up when appropriate. We are cautiously optimistic that this electronic tracking system will significantly reduce the ability of meth cooks to obtain pseudoephedrine in Iowa and will therefore reduce the number of methamphetamine labs in the state. This system should become even more effective as more states come online. It is my understanding that Missouri and Illinois are in the process of bringing the same system online that Iowa is using. As groups of states implement this system, it should further restrict the ability of meth cooks and “smurfers” to get adequate supplies of

pseudoephedrine. At a minimum, the compiling and sharing of this information electronically will help law enforcement identify the individuals who are purchasing in excess of the established limits or are engaging in suspicious purchasing activity.

It is my position that in Iowa, we would like to give the electronic tracking system that we are in the process of implementing time to work or not work as the case may be. At the time Iowa passed its state-level pseudoephedrine purchase restrictions prior to the Combat Methamphetamine Epidemic Act (CMEA), the discussion was had in the legislature about whether to require a prescription to purchase pseudoephedrine products – the decision then was that we don't want to severely restrict consumer access to an important product if there is a less-restrictive means that would help us achieve our goal. Iowa did require that almost all pseudoephedrine products (all that were used in the manufacture of methamphetamine) could only be sold in pharmacies in the state and this is something that has helped us not have the dramatic resurgence in labs that some other states have had.

Should the electronic tracking system prove ineffective, my position would likely change. However, until we have tried these less restrictive means, we do not support the effort to require a prescription to purchase pseudoephedrine products.

Another concern I have with making pseudoephedrine products prescription only is that our current system of regulating access to prescription drugs is not adequate to prevent widespread abuse. One need only look at OxyContin and other prescription painkillers to see that making pseudoephedrine products prescription only will not eliminate or even reduce methamphetamine labs. There is more OxyContin on the streets of this country than ever before and it would be much the same situation if pseudoephedrine were made prescription only. The “smurfers” would be able to get prescriptions for larger quantities of pseudoephedrine than they

can legally purchase now and law enforcement would be less able to obtain information regarding individuals purchasing large quantities of pseudoephedrine products.

It is my understanding that thirty-eight states have prescription drug monitoring programs and participation and law enforcement access varies widely from state to state. For example, in Iowa, participation by doctors and pharmacists in the prescription drug monitoring program is voluntary and law enforcement access to the information is severely restricted. If federal level participation in a prescription drug monitoring program could be mandated and law enforcement access to the information could be required, then I would feel differently about making pseudoephedrine products prescription only. Until these changes are made in our prescription monitoring process, I think making pseudoephedrine products prescription only would likely make our meth lab problem worse.

I would encourage you to pursue legislation that requires participation in a prescription drug monitoring program and mandates law enforcement to have access to the information collected. Once that is accomplished, then revisit this issue and consider making pseudoephedrine products prescription only at that time. Thank you so much for caring about this issue and for wanting to do something to help.

I also wanted to take this opportunity to thank you all for your continued support of the Byrne-JAG program and to ask you to support full funding for this very important program. In Iowa, the Byrne-JAG funding is the lynchpin to our drug control efforts. Iowa uses a large portion of our Byrne-JAG formula funding to support multi-jurisdictional drug task forces across the state. It is estimated that approximately 78% of cases opened by the Iowa Department of Public Safety Division of Narcotics Enforcement originated as investigations of a multi-jurisdictional drug task force. It is also a fact that the majority of cases opened by the Iowa

Department of Public Safety Division of Narcotics Enforcement are adopted by a federal agency and prosecuted in federal court. The drug enforcement effort is a multi-pronged system involving active participation by federal, state and local law enforcement. One prong, without the active participation of the other prongs, will not be as successful.

Likewise, drug enforcement efforts will not be as successful without adequate and effective prevention and treatment efforts. I am glad to see the increased support in the Obama Administration for funding for prevention and treatment programs. However, I would caution that this should not be done at the expense of law enforcement funding. Prevention and treatment efforts will not be as successful without effective and adequately funded drug enforcement efforts. I would encourage you to protect and restore the funding for the High Intensity Drug Trafficking Area program as you craft your budget from the President's recommendations.

Thank you for allowing me to appear before this caucus and share my view from Iowa of the issue of making pseudoephedrine products prescription only. Thank you for caring about this issue and for wanting to do something to help and thank you for your service to our wonderful Country.